



The Comptroller General
of the United States

Washington, D.C. 20548

Westfall

Decision

Matter of: Training Engineering Aviation Management
Corporation
File: B-235553
Date: May 26, 1989

DIGEST

Protester is not an interested party to object to dissolution of small business set-aside where it would not have been in line for award if set-aside had not been withdrawn.

DECISION

Training Engineering Aviation Management Corporation (TEAM) protests the removal of the small business set-aside restriction from request for proposals (RFP) No. N00123-89-R-5179, issued by the Department of the Navy for classroom training for the Joint Interoperability of Tactical Command Control Systems. The Navy withdrew the set-aside after determining that the prices submitted by the only two eligible small business offerors, TEAM and Orion Analysis, were not reasonable. We dismiss the protest.

TEAM argues that the set-aside should not have been withdrawn since the price submitted by Orion, which was within 12.5 percent of the government estimate, was reasonable.

We will not consider this ground of protest since TEAM is not an interested party to object to withdrawal of the set-aside on the grounds that another offeror's price was reasonable. Our Bid Protest Regulations define an "interested party" for purposes of filing a protest as an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. 4 C.F.R. § 21.0(a) (1988). Here, TEAM's economic interest was not affected by the agency decision to withdraw the set-aside since Orion, not it, would have been in line for award if the set-aside had

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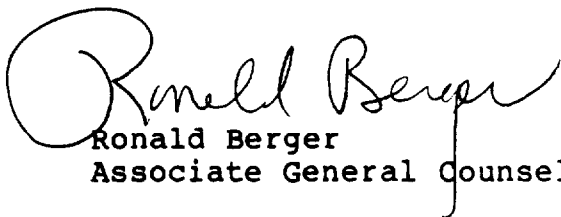
not been withdrawn. See Asbestos Abatement of America, Inc.--Request for Reconsideration, B-221891.2 et al., Aug. 5, 1986, 86-2 CPD ¶ 146.

TEAM also objects to the fact that the requirement was solicited pursuant to competitive negotiation, rather than pursuant to sealed bidding. The protester argues that the use of sealed bidding was appropriate since the solicitation required only a cost proposal.

Under the Competition in Contracting Act of 1984 (CICA), agencies are required to obtain full and open competition and to use the competitive procedure or combination of competitive procedures best suited to the circumstances of the procurement. 10 U.S.C. § 2304(a)(1)(B) (Supp. IV 1986). Sealed bidding procedures are to be used if time permits, award is to be made on the basis of price and price-related factors, discussions are not necessary, and there is a reasonable expectation of receiving more than one sealed bid. 10 U.S.C. § 2304(a)(2)(A); Federal Acquisition Regulation (FAR) § 6.401. If one of these factors is not present, the agency may solicit competitive proposals pursuant to negotiation procedures. Milbar Corp., B-232158, Nov. 23, 1988, 88-2 CPD ¶ 509.

Although award in this case is apparently to be made on the basis of price, the protester has not argued that time permits the use of sealed bidding procedures or that discussions are unnecessary. Since the agency may, pursuant to CICA, solicit competitive proposals where it needs to conduct discussions or where it does not have the time for sealed bidding, the protester has failed to state a basis for protest by merely contending that only price proposals were solicited.

The protest is dismissed.


Ronald Berger
Associate General Counsel